

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DIGENE CORPORATION,

Plaintiff,

v.

THIRD WAVE TECHNOLOGIES, INC.,

Defendant.

ORDER

3:07-cv-00022-bbc

A telephone conference was held in this case on November 21, 2007, before United States District Judge Barbara B. Crabb. Plaintiff was represented by Errol Taylor, Jack Griem, Gregory Baker, Einar Stole and Cathy Cetrangolo. Defendant was represented by Graham Gerst and Robert Robertson. Also present was Cindy Ahn, general counsel for defendant.

After evaluating the amount of discovery that would be necessary before the parties would be prepared to go to trial on plaintiff's infringement claims against the Plasmid 52 A issues, I ruled that the February 18, 2008 trial would go forward only on whether this is an exceptional case and defendant's anti-trust counterclaims. If plaintiff wishes to allege infringement of the Plasmid 52 A, it will have to file a new complaint, since it has

never asserted an infringement claim concerning the Plasmid 52 A.

ORDER

IT IS ORDERED that plaintiff's infringement claim against defendant (count 1 of plaintiff's complaint) is DISMISSED, as are defendant's counterclaims 1, 2, 3 and 4. Trial will not go forward on any other infringement claims but will be limited to defendant's counterclaims 5 through 9. The present schedule for trial remains as previously entered.

Entered this 21st day of November, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge